

Mount Vernon Planning and Zoning Commission
Minutes
March 13, 2013
City Hall Council Chambers, 6:30 PM

Meeting was called to order by Vice Chairman Truman Jordan at 6:37 p.m.
Members present: Truman Jordan, Trude Elliott, Carol Chamberlain, Dave Davis and Bill Micheel. Also in attendance: Zoning Administrator Matt Siders.

1. Approval of Agenda and January 9, 2013 minutes. These documents stand approved unless otherwise indicated by Commission members. Truman indicated that Randy Nicols name was misspelled in item #4 of the January 9, 2013 minutes. Minutes approved with this correction.
2. Open Forum: each citizen limited to 5 minutes per discussion item.
3. Public Hearing on request for conditional use permit for an Amateur Radio Tower at 520 15th Avenue SW. Discussion and possible action. Motion made by Elliott to open public hearing. Seconded by Davis. Carried all. James Darby of 520 15th Avenue SW said that he had sent a letter to the Zoning Administrator along with pictures of the antennas. At the time that he put the antennas up he didn't know that Mt. Vernon had a prohibition against it. He went to all of his neighbors and told them what he was going to do and got no objections. He started installing the antennas but is not operating with it yet because he hasn't finished connecting it. He was waiting on the outcome of this hearing. He feels that it is a very unobtrusive antenna compared to some. He has been a ham operator for 66 years, enjoys the hobby and has done quite a bit of public service and emergency work. Darby went on to say that there is a federal statute issued by the FCC that prohibits cities and states from prohibiting the antenna. It allows the capability for the City to control the placement and conditions on height but cannot prohibit the antenna itself. He is asking for consideration on his request for a Conditional Use Permit for the antenna. Chamberlain asked if there would be a wire above ground level that connects all four poles once setup is complete. Darby stated that the wire is already there, you just can't see it. Chamberlain asked what height it was, to which Darby responded 20 feet off the ground. Zoning Administrator Matt Siders stated that the pictures that were provided to board members were the initial pictures before the project was complete. Since then, Darby has tightened all of the wires so they are at the gutter level of his house. The pictures that Darby provided show this. Elliott asked if the issue was the height, which cannot be higher than 75 feet. Siders said that the issue at hand is that in the TR zoning district, amateur radio towers require a conditional use permit and this is the process that needs to take place. The height is not the issue. Siders said that there was no building permit submitted because the owner did not know that it was required nor did he know that there was a

Conditional Use Permit required. A couple of neighbors approached Siders when the project first started and asked if it was allowed. This led to further investigation by Siders and that was when the process was determined. The issue of whether a building permit is required is still undetermined. Siders determined that it needed to go through the Conditional Use process by Planning and Zoning who then gives a recommendation to Board of Adjustment. From there, Board of Adjustment will decide if the Conditional Use Permit can be granted. Elliott asked what Planning and Zoning would use to base their decision on. Table 13-1 of the zoning ordinance specifies the criteria and he thinks that setbacks would be the only criteria that would have to be considered. Micheel agreed that setbacks would be the only item in question but this would be discussed at the time that the building permit is applied for. Elliott asked if the antenna could be moved if it did not meet setback requirements. Darby stated that the length of the wire between poles will affect the quality. Micheel asked Siders what the setback was in this zoning district. Siders said that the issue at hand would be the rear setback, which is 30'. Siders also said that setbacks are generally for a structure so there is a question as to whether it would apply to an antenna, but by the definition in the code it would be considered a structure. Chamberlain said it was her opinion that the poles were not a structure but felt that they were four poles in his back yard with a wire between them. Siders then read the definition of a "structure" which states, "any object constructed or built and attached or anchored permanently or semi-permanently to the ground in such a way as to prevent routine movement". Discussion then went back to the height issue of the wires. Darby said for the frequency of his antenna the optimum height would be 40 feet but he has cut that in half. Siders then said the people that originally had concerns about the antenna no longer have those concerns now that the wires are tight and not hanging on the ground and are not concerned about safety. Jordan asked about what supports the poles. Darby said that he has 2 inch galvanized pipe driven into the ground with the antenna mast in that pipe. With no further discussion, Elliott made a motion to close the public hearing, seconded by Davis. Carried all.

Micheel Said that criteria for approval of Conditional Use Permits are laid out in Table 13-1 and he does not see any that apply to this other than the setback issue and it leaves the door open for variation from. In his opinion this meets the criteria for approval of a Conditional Use Permit. Elliott clarified that Planning and Zoning would make a recommendation for approval that would be acted on by Board of Adjustment. Discussion then centered on the issue of the height of the wires and safety issues. Micheel felt that this was private property rights and the board didn't have the right to do that. Davis agreed and stated that it was not the board's place to

determine the size and how visual the wires need to be, the legal liabilities are that of the homeowner. This would not be one of the criteria for approval. Davis felt that according to the ordinance, this was not a structure but an antennae.

Micheel then made a motion to recommend approval of a Conditional Use Permit for the amateur radio tower with the understanding that the tower meets the criteria for a variation on the setback limitation as stated in Table 13-1, page 4 of the Mount Vernon Zoning Code of Ordinances (Item 1303 - Conditional Use Permit Procedure). Seconded by Elliott. Voting yes: Elliott, Chamberlain, Jordan, Davis, Micheel. Voting no: None.

4. Discussion and possible action of new lighting at Plaza Auto Auction. Siders stated that Plaza Auto Auction had contacted him. They have an electrician working on extensive new lighting. Because of the proposed new lighting ordinance he wanted to discuss this with the board. He asked that they hold off on any improvements until the lighting ordinance is passed. Micheel said his personal feeling is that because the lighting ordinance is not adopted, there is no reason or authority to make a recommendation. Siders said that there is no projected date for the new lighting to go up but they have spent money on planning for this and if the new lighting ordinance goes into affect, they will have to go back to the drawing board if it did not meet specifications. Jordan said he didn't feel that the lighting ordinance would be ready to go to Council for a while. Micheel said that Plaza Auto needed to make the decision on whether to proceed with the knowledge that things may change or wait until the lighting ordinance is approved. Elliott said it was fair to make them aware of the lighting ordinance but that they know it is still in draft format at this point. Davis said that any common sense would have Plaza Auto knowing that they don't want to put any more light on the apartments across the street, they don't want to put anything higher than they have to, they don't want to do anything that would put them out of the "dark sky" acceptable criteria any more than they have to and there are changes coming and the more they do to be a better part of the community in their lighting now the better of they will be down the road. No action was taken.
5. Discussion and possible action on proposed lighting ordinance. Elliott provided commission members with an updated draft based off of previous discussions and implementing some of the recommendations made by Randy Nicols at the last meeting and discussion was based on this. Micheel suggested having Randy look at the draft again and see if anything was missed and also suggested asking for public input to incorporate into the next draft. A question was raised about whether Cornell College should be exempt from the proposed ordinance but it was determined that the new ordinance would not apply to that zoning district so they would be exempt

- anyway. After the next draft is complete Siders will share it with affected parties and ask for input. Jordan, Elliott and Micheel will meet with Randy Nicols and will bring a document to the next meeting for discussion. Public input will take place at the May 2013 meeting. There were no issues from any members on the current content of the draft. Discussion will continue at the next meeting.
6. Discussion and possible action on revisions to the Comprehensive Plan. Micheel said he feels that it is a good idea for Planning and Zoning to avoid any situation where they are the lead group on any planning efforts. He said it makes sense for Council to move forward with any updates to determine what changes are needed. Chamberlain questioned whether anything should be done if people were not going to follow the plan as intended. Elliott said it was good to have a guideline. Micheel felt that the Zoning and Subdivision ordinances were written to implement the Comprehensive Plan and without the plan you would be “wandering in the dark” and it was an important document to have in that respect, that it guides any amendments or changes to those two ordinances. Chamberlain said it needed to mean something and apply to everyone. Jordan said it was supposed to guide the formation of the zoning ordinance and other ordinances but is not a law in itself but a community vision. It was put together several years ago with a tremendous amount of community input. The City Council has to want to try and follow along. He also feels that there would be great value in having the community come together again and re-do the plan but doesn’t feel that the Planning and Zoning Commission is the organization to do it. Davis made a motion that the Planning and Zoning Commission recommend to Council that the Comprehensive Plan needs to be updated and that they hire professional services to work with Council’s vision to update it accordingly or as they see fit. Seconded by Micheel. Carried all.
 7. Zoning Administrator Report. There were no building permit applications approved in January or February. The only denial was the United Methodist Church came back and revised their original plan for a sign; it was denied by the City and went to Board of Adjustment where it was denied again.
 8. Old Business.
 9. New Business.

Meeting adjourned at 8:05 p.m.

Respectfully submitted,
Marsha Dewell
Administrative Assistant